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In re Application of :  
TRIBELSKY et al. :  
U.S. Application No. 10/566,992 :  
PCT No.: PCT/IL04/00717 : DECISION ON REQUEST  
Int. Filing Date: 04 August 2004 :  
Priority Date: 04 August 2003 :  
Attorney Docket No.: P7785US :  
For: IN-LINE TREATMENT OF LIQUIDS :  
AND GASES BY LIGHT IRRADIATION :

This decision is issued in response to applicant's "Petition to add Inventors under 37 CFR 1.48(a)" filed 04 January 2007 which is being treated as a Request under 37 CFR 1.497(d). Additionally, this decision is issued in response to applicant's "Petition under 37 CFR 1.47(a)" filed 04 January 2007.

### BACKGROUND

On 04 August 2004, applicant filed international application no. PCT/IL04/00717 which claimed a priority date of 04 August 2003. The international application named Zamir Tribelsky as an applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 February 2006.

On 02 February 2006, applicant filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 09 August 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 04 January 2007, applicant filed a request under 37 CFR 1.497(d) which included a declaration executed by: Ytzhak Rozenberg; Uri Levy; and Joseph Rabani. Additionally, applicant submitted a petition under 37 CFR 1.47(a) to accept the application without the signature of inventor, Zamir Tribelsky.

## DISCUSSION

### *Request under 37 CFR 1.497(d)*

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a “nonprovisional” application, therefore, applicants’ request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventor Ytzhak Rozenberg; Uri Levy; and Joseph Rabani to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17; and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

(4) any new oath or declaration required by paragraph (f) of this subsection.

Applicant has satisfied items (1), (2) and (4).

Applicant has not satisfied item (3). Applicant states in the present request that “the consent of the assignee is not required insofar as no assignment has yet been executed.” In order to satisfy item (3), applicant is required to submit a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b), or written confirmation that no assignee exists. Since applicant affirms that an assignee exists, a written consent in compliance with 37 CFR 3.73 is required.

Because applicant has not satisfied all the requirements of 37 CFR 1.497(d), inventors Ytzhak Rozenberg; Uri Levy; and Joseph Rabani cannot be added to the application at the present time.

*Petition under 37 CFR 1.47(a)*

Applicant's petition under 37 CFR 1.47(a) is being held in abeyance until a grantable request under 37 CFR 1.497(d) has been filed. (It is noted that applicant has not submitted a clear statement of the nonsigning inventors' last known home address. See MPEP §605.03)

**CONCLUSION**

Applicant's request to add inventors Ytzhak Rozenberg; Uri Levy; and Joseph Rabani under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The petition under 37 CFR 1.47(a) is held in abeyance.

Applicant must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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